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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 02-051

AN ORDER to amend Ins 3.37 (3) (b), (d) and (e); and to create Ins 3.37 (3) (g), relating to transitional treatment.

Submitted by **OFFICE OF THE COMMISSIONER OF INSURANCE**

04-15-02 RECEIVED BY LEGISLATIVE COUNCIL.

05-13-02 REPORT SENT TO AGENCY.

RS:PS:tlu;ksm

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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# WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 02-051

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 1. Statutory Authority

In the rule analysis, s. 600.01 (2), Stats., should be deleted from the list of statutes providing authority for this rule. The remaining citations are correct.

#### 4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. Ins 3.37 (3) (d), the more specific citation to the rule provision governing certification of residential treatment programs for alcohol or drug dependent persons is s. HFS 75.14 (2).

b. In s. Ins 3.37 (3) (e), the more specific citation to the rule provision governing certification of alcohol and drug abuse day treatment programs is s. HFS 75.12 (2).

c. In s. Ins 3.37 (3) (g), the correct reference to the rule provision governing certification of emergency mental health services is s. HFS 34.03.

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the last sentence of the second paragraph of the analysis, a comma should be inserted after the first occurrence of the word "programs."

b. In s. Ins 3.37 (3) (d), should reference be made to *transitional* residential treatment, as it is in the title and text of s. HFS 75.14? Also, the word "person" on line 2 should be plural.

c. In s. Ins 3.37 (3) (g):

(1) For consistency with the wording of preceding paragraphs, the word "programs" on line 1 should be deleted, the period on line 3 should be replaced by a comma, and the phrase "Services are provided" should be deleted.

(2) The word "person" on line 2 should be plural.

(3) A period should be placed at the end of the provision.

d. In SECTION 3, the word "applies" should be replaced by the word "apply."

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE**

**AMENDING AND CREATING A RULE**

To amend Ins 3.37 (3) (b), (d) and (e); and to create Ins 3.37 (3) (g) , Wis. Adm. Code, relating to Transitional treatment.

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**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE**

Statutory authority: ss. 600.01(2), 601.41(3), 632.89(4), Stats.

*fr. Julie Walsh,  
600.01(2)  
Should be listed*

Statutes interpreted: ss. 632.89(4), Stats.

Section 632.89 (4), Stats., requires the Office of the Commissioner of Insurance to define services for which insurance coverage applies to various transitional treatment of mental health and alcohol and other drug abuse treatment services. Due to recent changes in regulations issued by the Department of Health and Family Services (DHFS), several cross reference cites within s. Ins 3.37, Wis. Admin. Code, are invalid and require amendment and modification.

In addition, developments in mental health treatment options have created additional transitional treatment options, including crisis intervention, that should be incorporated within the scope of services covered under transitional treatment. Coordinated emergency mental health intervention treatment provides immediate treatment options to persons experiencing a mental health crisis or are in a situation that if left untreated would likely become a crisis if proper support is not provided. These coordinated emergency mental health treatment services are not provided within a hospital setting, rather the treatment and intervention occurs where the crisis is occurring. If the person is at risk for repeated need for intervention, intervention plans would be developed with the goal of decreasing the frequency and intensity of future crises. Coordinated emergency mental health programs, also known as crisis intervention programs, have been found to be effective both in terms of care to consumers and as a cost efficient alternative to traditional urgent or emergency treatment.

Crisis intervention programs must be certified by the Department of Health and Family Services and may be utilized by insurers as an alternate transitional treatment program.

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**SECTION 1. Sections Ins 3.37 (3)(b), (d) and (e) are amended to read:**

Ins 3.37 (3)(b) Mental health services for children and adolescents in a day treatment program offered by a provider certified by the department of health and family services under s. HFS ~~61.8140.04~~.<sup>✓</sup>

3.37(3)(d) Residential treatment programs for alcohol or drug dependent person<sup>s</sup>, or both<sup>1</sup>, certified by the department of health and family services under s. HFS ~~61.6075.14~~.<sup>(2)</sup> *AS.14 applies to transitional res. program*

3.37(3)(e) Services for alcoholism and other drug problems provided in a day treatment program certified by the department of health and family services under s. HFS ~~61.6175.12~~.<sup>(2)</sup>

**SECTION 2. Section Ins 3.37 (3) (g) is created to read:**

Ins 3.37(3) (g) Coordinated emergency mental health services ~~programs~~ for person<sup>s</sup> who are experiencing a mental health crisis or who are in a situation likely to turn into a mental health crisis if support is not provided. Services are provided by a program certified by the department of health and family services under s. HFS 34.22 *X*

**SECTION 3. These changes first apply to policies issued or renewed as of January 1, 2003.** *34.22 address. copy*

Dated at Madison, Wisconsin, this 12 day of April, 2002.

*Connie L. O'Connell*

Connie L. O'Connell  
Commissioner of Insurance



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor  
Connie L. O'Connell, Commissioner

August 26, 2002

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[Wisconsin.gov](http://Wisconsin.gov)

HONORABLE JUDITH ROBSON  
SENATE CO-CHAIRPERSON  
JOINT COMM FOR REVIEW OF ADM RULES  
SOUTH STATE CAPITOL RM 15  
MADISON WI 53702

Re: Section Ins 3.37, Wis. Adm. Code, relating to Transitional treatment  
Clearinghouse Rule No. 02-051

Dear Senator Robson:

I am enclosing a copy of this proposed rule which has been submitted to the presiding officers of the legislative houses under s. 227.19 (2), Wis. Stat. A copy of the report required under s. 227.19 (3), Wis. Stat., is also enclosed.

Sincerely,

Connie L. O'Connell  
Commissioner

CLO:JW  
Attachment: 1 copy rule & legislative report

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE**  
**AMENDING AND CREATING A RULE**

To amend Ins 3.37 (3) (intro), (b), (d) and (e); and to create Ins 3.37 (3) (g) , Wis. Admin. Code, relating to Transitional treatment.

---

**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE**

Statutory authority: ss. 601.41(3), 632.89(4), Stats.

Statutes interpreted: ss. 632.89(4), Stats.

Section 632.89 (4), Stats., requires the Office of the Commissioner of Insurance to define services for which insurance coverage applies to various transitional treatment of mental health and alcohol and other drug abuse treatment services. Due to recent changes in regulations issued by the Department of Health and Family Services (DHFS), several cross reference cites within s. Ins 3.37, Wis. Admin. Code, are invalid and require amendment and modification.

In addition, developments in mental health treatment options have created additional transitional treatment options, including crisis intervention, that should be incorporated within the scope of services covered under transitional treatment. Coordinated emergency mental health intervention treatment provides immediate treatment options to persons experiencing a mental health crisis or are in a situation that if left untreated would likely become a crisis if proper support is not provided. These coordinated emergency mental health treatment services are not provided within a hospital setting, rather the treatment and intervention occurs where the crisis is occurring. If the person is at risk for repeated need for intervention, intervention plans would be developed with the goal of decreasing the frequency and intensity of future crises. Coordinated emergency mental health programs, also known as crisis intervention programs, have been found to be effective both in terms of care to consumers and as a cost efficient alternative to traditional urgent or emergency treatment.

Crisis intervention programs must be certified by the Department of Health and Family Services and may be utilized by insurers as an alternate transitional treatment program.

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**SECTION 1. Sections Ins 3.37 (intro), (3)(b), (d) and (e) are amended to read:**

Ins 3.37 (intro) COVERED SERVICES. A policy subject to this section shall provide at least the amount of coverage required under s. 632.89 (2) (dm) 2., Stats., subject to the exclusions or limitations, including deductibles and copayments, that are generally applicable to coverage required under s. 632.89 (2), Stats., for all of the following:

Ins 3.37 (3)(b) Mental health services for children and adolescents in a day treatment program offered by a provider certified by the department of health and family services under s. HFS ~~61-8140.04~~.

3.37(3)(d) Residential treatment programs for alcohol or drug dependent ~~person~~persons, or both, certified by the department of health and family services under s. HFS ~~61-6075.14 (1) and (2)~~.

3.37(3)(e) Services for alcoholism and other drug problems provided in a day treatment program certified by the department of health and family services under s. HFS ~~61-6175.12 (1) and (2)~~

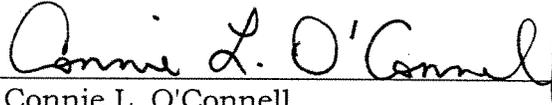
**SECTION 2. Section Ins 3.37 (3) (g) is created to read:**

Ins 3.37(3) (g) Coordinated emergency mental health services for persons who are experiencing a mental health crisis or who are in a situation likely to turn into a mental health crisis if support is not provided. Services are provided by a program certified by the department of health and family services under s. HFS 34.03 and provided in accordance with subch. III HFS 34 for the period of time the person is experiencing a mental health crisis until the person is stabilized or referred to other providers for stabilization. Certified emergency mental health service plans shall provide timely notice to third-party payors to facilitate coordination of services for persons who are experiencing or are in a situation likely to turn into a mental health crisis.

**SECTION 3.** These changes first apply to policies issued or renewed on or after January 1, 2003.

**SECTION 4.** These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 26 day of August, 2002.

  
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Connie L. O'Connell  
Commissioner of Insurance



WISCONSIN LEGISLATIVE COUNCIL  
RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

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CLEARINGHOUSE RULE 02-051

AN ORDER to amend Ins 3.37 (3) (b), (d) and (e); and to create Ins 3.37 (3) (g), relating to transitional treatment.

Submitted by OFFICE OF THE COMMISSIONER OF INSURANCE

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05-13-02 REPORT SENT TO AGENCY.

RS:PS:tlu;ksm

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 02-051

#### Comments

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c. In s. Ins 3.37 (3) (g), the correct reference to the rule provision governing certification of emergency mental health services is s. HFS 34.03.

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the last sentence of the second paragraph of the analysis, a comma should be inserted after the first occurrence of the word "programs."

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(2) The word "person" on line 2 should be plural.

(3) A period should be placed at the end of the provision.

d. In SECTION 3, the word "applies" should be replaced by the word "apply."



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor

Connie L. O'Connell, Commissioner

Wisconsin.gov

August 26, 2002

Legal Ur  
121 East Wilson Street • P.O. Box 78  
Madison, Wisconsin 53707-78  
Phone: (608) 267-9586 • Fax: (608) 264-62.  
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Web Address: oci.wi.g

REPORT ON Section Ins 3.37, Wis. Adm. Code, relating to  
Transitional treatment

Clearinghouse Rule No 02-051  
Submitted Under s. 227.19 (3), Stats.  
The proposed rule-making order is attached.

(a) Statement of need for the proposed rule

The Department of Health and Family Services modified several chapters in their section of the Wisconsin Administrative Code which left cross references within OCI's s. Ins 3.37 with inaccurate cites. In addition, due to advancements in treatment, Ins 3.37 was modified to include crisis intervention services as transitional treatment.

(b) Modifications made in proposed rule based on testimony at public hearing:

Language was modified to more accurately reflect the provision of services and ensure communication with insurers.

(c) Persons who appeared or registered regarding the proposed rule:

Appearances For:

Jeff Lewis, North Central Health Services  
Robert Holzman, Waushara County Human Services  
George Hulick, Department of Health and Family Services  
Chris Morano, Ph.D., WrapAround Milwaukee  
Steven Dykstra, Ph.D, Milwaukee County Mental Health

Appearances Against:

Joe Kachelski, Wisconsin Association of Health Plans

Appearances For Information:

Joe Kachelski, Wisconsin Association of Health Plans

Registrations For:

None

Registrations Against:

None

Registrations Neither for nor against:

Lynn Retan, Health Tradition/Prevea Health Plan

Letters received:

Jeff Lewis, North Central Health Care

Jodi Perez, Consumer

Petition signed by 17 persons affiliated in some capacity with North Central Health Care

Ed Gault, Consumer

Joe Kachelski, Wisconsin Association of Health Plans

Chris Morano, Ph.D., WrapAround Milwaukee

Thomas Huiting, The Human Service Center

Jeff Lewis, North Central Health Care

Chris Morano, Ph.D., WrapAround Milwaukee

(d) Response to Legislative Council staff recommendations

All comments were complied with and corrected except the following:

1. Section 4 comments a and b were modified as requested by Department of Health and Family Services.
2. Section 5 comment b., the word "transitional" was not inserted in order to parallel the section referenced in s. HFS 75.14.
3. Section 5 comment c. 1. the term "programs" was not inserted in place of "services" as it would not parallel the section referenced in HFS 34.03, and the Office did not believe confusion would arise if the term services was retained.

(e) Regulatory flexibility analysis

No issues were raised by small businesses during the hearing on the proposed rule.

The proposed rule does not impose any additional reporting requirements on small businesses.

The proposed rule does not require any additional measures or investments by small businesses.

(f) Fiscal Effect

See fiscal estimate attached to proposed rule.